



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0091; Notice 2]

Cooper Tire & Rubber Company, Grant of Petition for Decision of
Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Cooper Tire & Rubber Company (Cooper), has determined that certain Cooper tires do not fully comply with paragraph S5.5.1(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Tires Radial Tires for Light Vehicles*. Cooper filed a report dated August 13, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Cooper then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

ADDRESSES: For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5310, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Cooper submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of Cooper's petition was published, with a 30-day public comment period, on October 22, 2015 in the Federal Register (80 FR 64057). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2015-0091."

II. Tires Involved: Affected are approximately 1,350 Cooper Weather-Master S/T2 size 215/70R15 tires manufactured between April 26, 2015 and May 29, 2015.

III. Noncompliance: Cooper explains that the noncompliance is that the inboard sidewalls of the subject tires are labeled with an incorrect manufacturer's identification mark and therefore do not fully meet all applicable requirements of paragraph S5.5.1(b) of FMVSS No. 139. Specifically, the tires are labeled with manufacturer's identification mark "U8" instead of "U9."

IV. Rule Text: Paragraph S5.5.1 of FMVSS No. 139 requires in pertinent part:

S5.5.1 *Tire Identification Number.*

...

(b) *Tires manufactured on or after September 1, 2009.* Each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire. Except for retreaded tires, either the tire identification number or a partial tire identification number, containing all characters in the tire identification number, except for the date code and, at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire. Except for retreaded tires, if a tire does not have an intended outboard sidewall, the tire must be labeled with the tire identification number required by 49 CFR part 574 on one sidewall and with either the tire identification number or a partial tire identification number, containing all characters in the tire identification number except for the date code and, at the discretion of the manufacturer, any optional code, on the other side wall.

V. Summary of Cooper's Petition: Cooper states its belief that the subject noncompliance is inconsequential to motor vehicle safety because while the subject tires contain an incorrect manufacturer's identification mark on the inboard sidewall, the full and correct tire code (including the correct manufacturer's identification mark) is available on the intended outboard sidewall. In addition, Cooper stated that the tires are marked with the Cooper Weather-Master S/T2 brand name that is exclusively owned by Cooper Tire & Rubber Company.

Cooper also indicated that it has taken the following steps to ensure proper registration of the subject tires:

- a) Cooper has informed all internal personnel responsible for manual processing of tire registration cards about the "U8"

issue so that cards containing the "U8" designation will be accepted and properly processed when all other information accurately identifies the subject tires. And, Cooper will follow up with the consumer seeking additional information by providing a prepaid response card.

b) Cooper is in the process of modifying its database to accept "U8" when other information (brand, serial weeks affected etc.) is accurate.

c) Cooper has contacted Computerized Information and Management Services, Inc. (CIMS) so that tire registration cards will not be rejected solely due to improper plant code information.

Cooper additionally informed NHTSA that on May 29, 2015 the incorrect mold was pulled and the stamping error that caused the subject noncompliance was corrected at that time.

Refer to Coopers' petition for their complete reasoning. The petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/> and following the online search instructions to locate the docket number listed in the title of this notice.

In summation, Cooper believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt Cooper from

providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA'S DECISION:

NHTSA's Analysis: While the first grouping of the tire identification number (TIN) on the subject tires is marked with the incorrect manufacturer's identification code "U8," instead of the correct code "U9," this mismarking is only on the inner sidewall. The correct full TIN is properly marked on the outside sidewall, and the correct corporate brand name is marked on both sidewalls. NHTSA believes this noncompliance will not cause misidentification of the tire manufacturer should a safety defect be identified in the subject tires.

Cooper additionally informed NHTSA that the subject tires meet and/or exceed all performance requirements and all other labeling markings as required by FMVSS No. 139 and that Cooper is not aware of any crashes, injuries, customer complaints, or field reports associated with the subject tires.

Cooper also notified NHTSA that proper registration of the tires will be accepted with the erroneous code. Cooper collectively worked with CIMS (Computerized Information and Management Services), Inc., to ensure that the subject tires are correctly registered regardless of the incorrect code.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted and that the manufacturer of the tires can be readily identified.

Cooper also informed NHTSA that on May 29, 2015 it corrected the mold problem that originated the non-compliance. *NHTSA Decision:* In consideration of the foregoing, NHTSA finds that Cooper has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is hereby granted and Cooper is consequently exempted from the obligation of providing notification of, and a free remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that Cooper no longer controlled at the time it determined that the noncompliance existed. However, the granting

of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Director
Office of Vehicle Safety Compliance

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